



San Diego City Attorney MICHAEL J. AGUIRRE

NEWS RELEASE

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CITY ATTORNEY OPINES COUNCIL MAY NOT TRANSFER MISDEMEANOR PROSECUTORIAL DUTIES TO THE DISTRICT ATTORNEY WITHOUT A VOTE OF THE PEOPLE

San Diego, CA: The San Diego City Council has no legal authority to transfer misdemeanor prosecutorial duties from the City Attorney to the District Attorney without a vote of the people. In a legal memorandum delivered to the Mayor and City Council, San Diego City Attorney Michael Aguirre opined that the jurisdiction that his Office has over misdemeanors committed within City limits is mandatory under the San Diego City Charter.

“Although the jurisdiction is shared with the District Attorney, the San Diego City Council has no power to transfer the City Attorney’s prosecutorial responsibilities to any other government entity,” said City Attorney Aguirre. “Such a transfer may be accomplished only by a Charter amendment passed by a majority vote of the people.”

Last month, District Attorney Bonnie Dumanis, without notice to the City Attorney, appeared before the City Council, where she made an elaborate power point presentation arguing that she could save the City \$2-million by taking over the City Attorney’s misdemeanor prosecutorial duties. Dumanis also told the City Council that they could adopt her proposal by a simple majority vote.

Dumanis based her assertion in part on a 1996 State Attorney General opinion, which, according to Aguirre, she has misinterpreted. Aguirre’s conclusion is supported by a May 17, 2005 letter to him from State Attorney General Bill Lockyer in which Lockyer declined to weigh in on this matter. Lockyer stated that his office has long refrained from interpreting City Charters.

City Attorney Aguirre also asserted that Dumanis’ plan will not save taxpayer money and that it fails to consider the negative public safety and quality of life consequences that would be caused by removing the City Attorney’s duty to prosecute misdemeanor crimes.

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